



TUOLUMNE UTILITIES DISTRICT

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Superior Court of California
County of Tuolumne

By: *Albury* Clerk

September 24, 2014

Honorable Judge Donald Segerstrom
Tuolumne County Superior Court
60 North Washington Street
Sonora, CA 95370

RE: Tuolumne Utilities District Responses
Tuolumne County Grand Jury Final Report 2013-2014

Dear Judge Segerstrom:

Enclosed you will find Tuolumne Utilities District (TUD) responses to the Tuolumne County Grand Jury Final Report recommendations that was released June 25, 2014. As required, Pursuant to Penal Code 933, TUD is responding to the findings before the 90 days or before October 1, 2014.

We appreciate the time and effort that the Tuolumne County Grand Jury put into the report that was issued. TUD will strive to improve its relationships with all concerned and to be transparent to our customers and the community.

If you have any questions or need further information from TUD, please contact me directly.

Sincerely,

Thomas L. Scesa
General Manager

CC: TUD Board of Directors
Tuolumne County Grand Jury
Jesse Barton, Gallery & Barton APLC



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GRAND JURY REQUIRED RESPONSES

The Grand Jury recommendations are numbered as was in the Grand Jury report and are shown in bold. The response by the Board is following each recommendation.

- R1 The Directors should attend the yearly Brown Act training presented by the Office of County Counsel, in addition to others available through outside entities or webinars. The Board of Directors Guidelines for Conduct should be amended to reflect this.**

Section 11 of the District's Guidelines for Conduct for Elected Officials states:

All District Board members shall receive training on the Brown Act every four (4) years. Within the first year of taking office, newly elected Board members will be expected to attend training on the Brown Act and Board orientation. The District Secretary shall maintain records of the training for at least five (5) years after the Board member receives training.

The above language requires all members of the Board to have Brown Act Training. In addition, state law requires that ethics training, which includes the Brown Act among other subjects, be provided every other year (Government Code § 53235, 53235.1). To require the Board to exceed the legal requirements does not seem reasonable or cost effective.

- R2 The Directors must immediately abide by the Brown Act during all meetings to prevent further violations of the Brown Act.**

The TUD Board of Directors is committed to abiding to the Brown Act and has no intent to have any violations of the Brown Act.

- R3 The Directors shall develop and abide by stronger guidelines than the Brown Act requires during all meetings.**

District staff is developing revisions to the District's Guidelines for Conduct for Elected Officials and will add language to proclaim the Boards willingness to understand and follow the Brown Act. The revisions will be presented to the Board before the end of the calendar year.

- R4 The Directors must promptly reconvene to a public session and properly report out after every closed session, as required by the Brown Act.**

The Board has no objection to this recommendation and will comply at the next opportunity.

- R5 The Directors must clearly announce agenda items to be discussed at closed sessions and invite public comment on them before going into closed session.**

The Board has no objection to this recommendation and will comply at the next opportunity.

- R6 The Directors shall designate a clerk or officer to take minutes during closed sessions.**

This recommendation seems unreasonable. The purpose of a closed session is to encourage the Board members to speak freely on sensitive matters. If minutes are taken, Board members may feel restricted to freely speak their mind because those minutes may be released for review. Thus, minutes may defeat the purpose of a closed session. Furthermore, there is no legal requirement for the recommendation. Any reportable action will continue to be reported on as required by law.

- R7 Directors shall immediately follow the existing Board of Directors Guidelines for Conduct Policy. The Conduct Policy shall be amended to include consequences for failing to adhere to the Conduct Policy. The Directors should be trained on the Conduct Policy before being sworn into office, and annually thereafter.**

The Directors are committed to following the existing District's Guidelines for Conduct for Elected Officials. Section 16 of the policy provides consequences for "a perceived violation of this policy". However the title of the section is "Violation of the Ethics Policy". The District commits to changing to the title of section 16 to make it clear that it applies to the entire policy by changing the title to "Violation of this Policy". As noted above, this revision will occur by the end of the calendar year.

The election of Directors occurs on the first Tuesday in November and the Directors take office the first Friday in December. The District typically does not hold the second meeting in either of these months. Although the District does agree that training for new Directors should occur early in their tenure, it does not seem reasonable for it to always occur before they are elected. The District commits to provide training within the first 3 months after election of new Directors.

- R13 The Board and staff at TUD shall begin a public outreach campaign to change the negative public opinion regarding TUD. This would alleviate the undue harassment against TUD employees.**

The District has an existing public outreach program to address the many issues at the District including the value of the employees. The District's On Tap newsletter has spotlighted specific employees to highlight their value to the District and its customers. District management has directed staff to continue to highlight projects and its benefits to educate customers and the community of the importance of the projects and the staff members that work on them. The

District will continue to educate the public on the value of the outstanding service that its employees offer to the public.

- R15 The District shall maintain and catalog a complete set of resolutions making them available to the public, staff and Directors upon request.**

A system for tracking resolutions, minutes and other important documents has been in place since the creation of the District.

- R16 The District shall complete as many studies in-house as feasibly possible to minimize costs.**

The District has and will continue to follow this recommendation.

- R17 Meeting minutes shall be published on Granicus within 48 hours of the meeting.**

The minutes of Board meetings are reviewed and normally approved by the Board at the next Board meeting. To post unapproved minutes and then replace them with approved minutes seems unreasonable, unnecessarily laborious for staff and confusing to the public. In an effort to meet the intent of the Jury's request the District will commit to publishing the approved minutes on Granicus within two business days of their approval.

- R19 Completed Director training shall be organized and in sequential order, then posted on the TUD website with expiration dates.**

The Board has no objection to this recommendation and will comply before the end of the year.

- R20 Directors shall attend and implement additional educational trainings to decrease TUD's insurance premiums.**

As can be seen on the Granicus recording of the Board meeting of August 12, 2014, available on the District's website, there are several ways by which the District can and does receive the maximum discount on its insurance premiums. The presentation at the meeting made it clear that there were several options for the Board to utilize to achieve the maximum discount. The Board has already chosen the most economical options to achieve the maximum discount.

- R21 The General Manager, staff and Directors shall develop a new, current Strategic Plan, so there are long-term goals and a vision for the District.**

The Board recognizes and acknowledges that a new Strategic Plan for the District is very important. However, when considering the November election and the retirement of the current General Manager, beginning a new Plan within the next

few months does not seem reasonable. The next Board and new General Manager will be tasked with developing the next Strategic Plan.

R23 Due to the time needed, the Directors shall immediately engage an outside firm to commence a search for the next General Manager.

The Board has no objection to this recommendation and has already begun seeking the services of an outside firm to locate the next General Manager.

R24 The Directors shall make every effort to hire a new General Manager with special district experience and the required educational levels.

A bachelor's degree or higher will be required of the next General Manager. The specific requirement to have special district experience may not be in the Districts best interest. There are several other locations, such as City and County government that have water and wastewater systems that can provide the necessary experience. Special district experience will be one of the locations listed as excepted experience in the job description. It seems unreasonable to limit the experience of the new General Manager.

R25 The Performance Evaluation for the General Manager, as developed by BHI Consulting, shall be adopted as a resolution and followed for every evaluation hereafter.

The Board agrees that the timely and consistent evaluation of the General Manager is important. However this recommendation is not reasonable. To set a methodology without consideration of changing tasks, changes in Board goals, new or updated Strategic Plans or other changes with time seems unreasonable.

R39 The District shall pursue all avenues to be involved with any pending CEQA processes, including litigation as needed to secure adequate water rights.

The Board is very committed to securing water rights for its customers and our community; however, the acquisition of water rights is extraordinarily complicated and even litigation cannot guarantee success. The Board does commit to continue to seek adequate and reliable water rights, but it cannot commit to success. The amount of funds needed to pursue a water right will be considerable.

The current draft of the County General Plan Water element directs County staff to consider pursuing water rights for the County.

R41 TUD shall continue with the PAC to assure proper public outreach and communication to improve subscriber relations and public opinion of TUD.

The District will continue to use the PAC process for current and future needs.

R43 TUD shall investigate the legality of the inter-fund transfers.

The District already has investigated the legality of inter-fund transfers. As a result, the District has prepared and published a report in compliance with Government Code § 66013(d), as noted in your report. Any and all transfers are properly accounted for in full compliance with law. The District is and will continue to look for ways to eliminate the need of the transfers.

GRAND JURY INVITED RESPONSES

The Grand Jury recommendations are numbered as was in the Grand Jury report and are shown in bold. The response by the General Manager is following each recommendation.

R14 The Human Resources department shall ensure that all annual reviews are conducted and brought current.

I appreciate the Grand Jury uncovering this. The District values its employees and needs to show its respect for the employees with timely evaluations. The Human Resources Department will work with all the managers to ensure that all existing tardy reviews are completed by the end of the fiscal year. Any new evaluations that become tardy will be reported to the General Manager for further action and completed within one month of the review due date.

R18 The District shall continue to publish the financial information in accordance with Government Code 66013(d) every year to maintain financial transparency.

I have no objection to this recommendation and will comply at the same time we publish our audited financial statements.

R22 The TWSOP shall be completed and implemented as part of the new Strategic Plan.

I have no objection to this recommendation. The TWSOP has been made a priority and is progressing towards completion.

R26 An oversight committee by members of TUD's staff shall be created to assure that the Performance Evaluation of the General Manager occurs in a timely and proper manner.

This recommendation is not reasonable. It is not the position of staff to assure the performance of the Board.

- R33 Identification of potential retiring employees shall be done semi-annually by the Human Resources department. Cross training should take place in all departments to avoid retirees returning after retirement to train replacements.**

The District Human Resources department does maintain a list of potential retirement dates of employees. To update the list on a semi-annual basis is not reasonable or necessary as staff does not normally change that frequently. There are economic advantages for the District to use retirees as it does.

- R35 The District Engineer position should be filled as soon as possible, so the General Manager can focus on his duties of overseeing the entire District.**

It is the intent of the District to staff the District Engineer position as soon as reasonable.

- R38 The Human Resource Director, along with the General Manager shall work to outline a succession plan as soon as possible. It should be updated yearly, or before any union negotiations, and include preparation for the replacement of potential retirees.**

Succession planning has and will continue to be a function of the District management. It is an element in the current Strategic Plan and is expected to be in the future Strategic Plan. However, updating a succession plan on a yearly basis maybe too long or short of a period of time depending on many factors such as the health of the employee or other family members or the employment status of a spouse of the employee. The District does commit to the development of a formalized succession plan and its timely revision.

- R39 The District shall pursue all avenues to be involved with any pending CEQA processes, including litigation as needed to secure adequate water rights.**

I am very committed to securing water supply for TUD's customers and our community and will advocate for this recommendation when the opportunity arises.

- R41 TUD shall continue with the PAC to assure proper public outreach and communication to improve subscriber relations and public opinion of TUD.**

The District will continue use the PAC process.

R42 TUD shall continue with publishing Water Code Section 31007's financial report every year.

Water Code section 31007 states:

31007. The rates and charges to be collected by the district shall be so fixed as to yield an amount sufficient to do each of the following:

(a) Pay the operating expenses of the district.

(b) Provide for repairs and depreciation of works owned or operated by the district.

(c) Pay the interest on any bonded debt.

(d) So far as possible, provide a fund for the payment of the principal of the bonded debt as it becomes due.

It is intended by this section to require the district to pay the interest and principal of its bonded debt from the revenues of the district, except that this requirement is not intended to apply to a bonded debt for sewage disposal purposes.

This Water Code section does not require any reporting.

R44 TUD shall commence a new rate study in the first quarter of Fiscal Year 2014 - 2015.

Unfortunately, due to changes in revenue this will be delayed until late in this fiscal year or into the next fiscal year.